IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12482 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NELASH ALIAS LALO MAHENDRABHAI BHARAMAN

Versus

COMMISSIONER OF POLICE

Appearance:

1. Special Civil Application No. 12482 of 2002

MR SATISH R PATEL for Petitioner No. 1

MS HARSHA DEVANI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/05/2003

ORAL JUDGEMENT

1. By filing this petition, the petitioner-detenue has challenged his detention order dated 13-11-2002 by which he is detained as a "Bootlegger" under the Prevention of Anti Social Activities Act, 1985 ("PASA"

for short). Along with the detention order, the petitioner was also served with the grounds of detention on the same date. The detaining authority after having satisfied about the activities has detained the petitioner under the provisions of "PASA". The said order is challenged by the petitioner on various grounds.

2. The learned advocate for the petitioner submitted that at the relevant time, the petitioner was already in judicial custody. However, the authority has stated that the petitioner may get bail at any point of time and may continue the said activity again. It is, therefore, submitted that the authority has not given appropriate reasons as to on what material it has reached the said conclusion that the petitioner may be released on bail at any point of time. The detaining authority has not discussed anything as to on what material it has reached the said conclusion that the petitioner may get the bail. Considering the aforesaid aspect and the aforesaid ground, the impugned order of detention is required to be set aside as it suffers from non-application of mind.

3. For the foregoing reasons, the petition is allowed. The order of detention dated 13-11-2002 is quashed and set aside. The detenue, Nelash alias Lallo Mahendrabhai Bhraman, is ordered to be set at liberty forthwith, if he is not required in connection with any other case. Rule is made absolute.

Sd/-

[P.B.MAJMUDAR,J]

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